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Ontario Loyal Commissioner of Labour  
disputes.

Almanac, Volume II, January 1967





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**ROYAL COMMISSION**  
**INQUIRY INTO LABOUR DISPUTES**

363

HEARINGS HELD AT

Toronto, Ont.

VOL. NO.

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16 Jan. 1967

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Toronto, Ontario

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IN THE MATTER OF The Public Inquiries Act, R.S.O. 1960,  
Ch. 323

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- and -

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IN THE MATTER OF an Inquiry  
Into Labour Disputes

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BEFORE: The Honourable Ivan  
C. Rand, Commissioner,  
at 123 Edward Street,  
Toronto, Ontario, on  
Monday, January 16,  
1967

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E. Marshall Pollock Counsel to the Commission

APPEARANCES The Hydro-Electric Power  
Commission of Ontario.

G.E. Gathercole	Chairman
Dr. J.M. Hambley	General Manager
C.B.C. Scott	Asst. General Manager - Personnel
R.H. Hillery	Director of Operations
W.H. Barnes	Director of Labour Relations
J.V. Kelly	Labour Relations Officer

Nethercut & Young Limited, Official  
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Ontario, per F.J. Nethercut & R.J. Young





Toronto, Ontario  
Monday, January 16th,  
1967

---At 10:00 a.m., the Hearing commenced

MR. POLLOCK: The Hydro-Electric Power Commission of Ontario. Mr. Gathercole?

7 MR. GATHERCOLE: Yes. Mr. Commissioner, we  
8 are very pleased to have this opportunity of appearing  
9 before you this morning. We have presented our submission  
10 to you and, therefore, I am sure you would consider it quite  
11 tedious for me to go right through it. I thought, by way  
12 of a few opening remarks and introduction that I might spend  
13 about 5 or 10 minutes placing the content and recommenda-  
14 tions we have made in our submission into perspective, if  
15 that would be agreeable to you.

16 THE COMMISSIONER: Yes, that is entirely  
17 agreeable to me. We much appreciate your attendance here  
18 today.

19 MR. GATHERCOLE: May I, Mr. Commissioner,  
20 first introduce the members of our Ontario Hydro group here.  
21 There is Dr. Hambley, the General Manager, on my left, Mr.  
22 C.B.C. Scott, our Assistant Manager - Personnel, Mr. Barnes,  
23 Director and Mr. Hillery, who is the Director of our Opera-  
24 tions, Mr. Commissioner, and Mr. Kelly. And then we have  
25 two other representatives of Hydro, who are in the back, Mr.  
26 Ian McRae and Mr. Henry Sisson, our Assistant General Manager  
27 of Services. I think we might have one or two others around  
28 too, sir, but we are here.

29 May I also say, sir, that I don't pretend  
30 in any sense to be an expert in the field of management-lai r





1 relations. But my presence here is an indication of the  
2 importance that we attach to this subject.

3 THE COMMISSIONER: That emphasizes the  
4 desirability of having your statement on it.

5 MR. GATHERCOLE: Thank you, Mr. Commissioner.

6 First I would like to emphasize our belief  
7 that Ontario Hydro possesses a loyal, conscientious and  
8 efficient staff and I hope that nothing in the remarks  
9 that I am about to make now, or in the content of our brief  
10 will obscure our firm conviction in this regard. I am not  
11 suggesting that we, as an organization, have been altogether  
12 free from some distressing circumstances in our labour  
13 relations, but by and large the Commission and the people  
14 of Ontario, have been, and are well served.

15 Second, we recognize that you cannot legis-  
16 late Utopia in this field, or other fields. Collective  
17 bargaining is essentially based upon conflicting interests.  
18 Sir, would it be helpful if I made available a copy of  
19 this to you?

20 THE COMMISSIONER: Afterwards, yes.

21 MR. GATHERCOLE: Collective bargaining is  
22 essentially based upon conflicting interests and economic  
23 interests and we thoroughly recognize that. The relevant  
24 legislation prescribes the machinery under which it takes  
25 place and strives to keep the power of both sides in some  
26 kind of reasonable balance and to resolve differences in  
27 opinions and disputes through an orderly process. In a  
28 free society, our lawmakers can do no more. We submit,  
29 however, Mr. Commissioner, that certain union practices  
30 have pointed to areas in which the machinery for dealing





1 with labour disputes should be strengthened.

2 This is not meant as any reflection upon  
3 the Department of Labour, the Labour Relations Board or  
4 provincial legislation itself. We have the highest respect  
5 for the staff of the Department and the Board and Mr.  
6 Eberlee and Mr. Finkleman and Mr. Reid. They are all very  
7 good people and we have great respect for them and the  
8 Board, of course, have to cope with an enormous number of  
9 crisis situations simultaneously. I have also heard rep-  
10 resentatives of both management and labour comment privately  
11 that the Ontario Labour Relations Act is the best and most  
12 effective legislation of its kind among the provinces in  
13 Canada. I do not suggest this represents the view of every  
14 management or union executive, but I believe - and this is  
15 my opinion - it to be widely held.

16 No legislation, of course, is perfect, and  
17 regular reviews are necessary if both the legislation and  
18 the administrative framework are to be kept consistent with  
19 the original intent of the legislation and administration  
20 and the conditions of the day which are constantly changing.

21 Third, I should stress that Ontario Hydro  
22 makes no plea to be sheltered from the normal processes of  
23 collective bargaining. We recognize the existence of an  
24 economic conflict of interest and that it is the substance  
25 of management-labour negotiations. We do not seek to be  
26 protected from the hard realities of the bargaining process.  
27 We recognize that the trade-union movement is an essential  
28 part of the structure of our social and economic system.  
29 There is no question that over the years it has helped to  
30 remove industrial abuses. By improving the lot of their





1 members, labour unions have contributed to the general  
2 well-being of the community.

3 The concern, in our submission, is with  
4 several factors which emerge from growing union strength  
5 and some practices that threaten to undermine established  
6 procedures and relationships.

7 First, we are concerned with the effect of a  
8 protracted strike against Ontario Hydro on the economic  
9 life of the province. Ontario Hydro supplies more than  
10 90 per cent of the electric power needs of this province  
11 and no alternative source of this energy is available to  
12 most of the industries, homes, businesses and farms. A  
13 strike against Hydro for any significant time would have a  
14 serious impact on our operations and we believe would, in  
15 the end, paralyze the economic life of Ontario. Work stop-  
16 pages that halt construction and delay in-service dates of  
17 equipment may also leave the province short of the essential  
18 electric energy required for its continuing development.  
19 In such circumstances, society should have the right to  
20 protect itself against the contingencies of strikes and the  
21 implications which arise from them.

22 Secondly, we are concerned with the emergence  
23 of a number of union practices which erode the authority  
24 of management, inhibit the mobility of labour, and frustr-  
25 ate production.

26 Wildcat strikes and illegal walkouts which  
27 ignore grievance procedures provided for in our contracts;  
28 slowdowns; jurisdictional disputes; labour market restric-  
29 tions; manoeuvring to assume control in areas considered  
30 exclusively the prerogative of management -- all these do





1 create disquiet. Of course, some of these problems, many  
2 of them, in fact, are more directly related to construction  
3 unions, and will be dealt with in a separate brief covering  
4 the construction field, to be submitted to the Commission  
5 later.

6 Nevertheless, it is fundamental to our in-  
7 dustrial order that the function of management is to manage.  
8 The line of authority should be clearly delineated and no  
9 one in a supervisory position should be required to serve  
10 two masters, the employer and the union. Employers have a  
11 responsibility to seek counsel and advice from their work-  
12 ers and representatives, but in the end, someone has to  
13 make decisions; they cannot be made by a sort of grand  
14 consensus.

15 With these few general observations I come  
16 now to the main recommendations which are as follows:

17 1. COMPULSORY ARBITRATION FOR ESSENTIAL  
18 PUBLIC SERVICE DISPUTES SHOULD BE MAINTAINED ON AN "AD HOC"  
19 BASIS WITH DISCRETIONARY POWERS OF GRANTING OR WITHHOLDING  
20 THE PROCEDURE VESTED IN THE PROVINCIAL OR FEDERAL CABINETS.

21 We recognize that compulsory bargaining is  
22 a two-edged sword, but we feel the public interest requires  
23 us to submit to it when necessary and, therefore, that  
24 union power should be required to submit to it as well  
25 when the public interest is at stake. The discretionary  
26 powers of government should have the affect of making com-  
27 pulsory arbitration a relatively rare occurrence, and thus  
28 protect the integrity of the bargaining process between  
29 the two parties.

30 But acceptance of this principle will not





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- 1 remove the hazard of illegal strikes, which can seriously  
2 cripple the economy.

3 This leads to our second major recommenda-  
4 tion:

5 2. ONTARIO HYDRO URGES ADOPTION OF PROCE-  
6 DURES FOR QUICK ENFORCEMENT OF OUR EXISTING REGULATIONS  
7 AND LAWS TO OFFSET THE GROWING MENACE OF THE ILLEGAL STRIKE.

8 The third recommendation flows from the  
9 second:

10 3. ONTARIO HYDRO SUBMITS THAT THE PRESENT  
11 INJUNCTION PROCESS SHOULD BE RETAINED AND IMPROVED, IF  
12 POSSIBLE, UNTIL AN ALTERNATIVE REMEDY IS DEVELOPED WHICH  
13 WOULD ENABLE US TO ENSURE CONTINUED OPERATION OF THIS ES-  
14 SENTIAL SERVICE IN THE FACE OF ANY UNLAWFUL ACTIVITY.

15 If you have any questions about our submis-  
16 sion, Mr. Commissioner, we will do our best to answer them.  
17 Mr. Scott and Mr. Barnes and Mr. Hillery are all thoroughly  
18 familiar with the technical aspects that are involved and  
19 we will be happy to supply the Commission with any addi-  
20 tional information which may be required.

21 Thank you.

22 THE COMMISSIONER: Take the first, now,  
23 compulsory arbitration, you spoke of it as an ad hoc pro-  
24 cedure. Why? Why not have a permanent body, well, like  
25 the Ontario Municipal Board, which becomes very much fam-  
26 iliarized with the details of matters of this sort and  
27 will gradually accumulate what we might call wisdom,  
28 certainly sound judgment, in these things which you don't  
29 have to the same extent in any ad hoc procedural method?

30 MR. GATHERCOLE: I think the intent there,





1 sir, - Mr. Scott will embellish that far more than I - but  
2 I would like to make this observation, sir, that if one  
3 assumes that these cases where compulsory arbitration would  
4 be required would be relatively few and rare -

5 THE COMMISSIONER: Oh, it would not be a  
6 special tribunal applicable to your undertaking.

7 MR. GATHERCOLE: No, but I say it would  
8 apply broadly. In any event it does appear to me that there  
9 would be, through the course of time, this type of expert  
10 personnel that would be developed which would be an exper-  
11 ienced body which could be called upon to deal with these  
12 situations as they arise. But I do, very definitely agree,  
13 there should be men and perhaps women too, who would be  
14 very skilled and experienced in these areas.

15 THE COMMISSIONER: You would go along with  
16 that?

17 MR. GATHERCOLE: Yes.

18 MR. SCOTT: Mr. Commissioner, I think maybe  
19 our statement there is a little bit misleading. We are  
20 not suggesting ad hoc arbitration boards as such, but we  
21 are suggesting that power be vested in the cabinet to use  
22 their discretion in imposing compulsory arbitration because  
23 we don't think, sir, that this should be automatic. We  
24 think if it were automatic it would lend itself to under-  
25 mining negotiations in good faith, either party, if they  
26 knew that eventually they were going to have to go to com-  
27 pulsory arbitration. It might just sort of by-pass it.

28 THE COMMISSIONER: You are really putting  
29 it in the same sort of class as the present arbitration,  
30 the conciliation board.





1 MR. SCOTT: This is correct. And, secondly,  
2 sir, we suggest that it should be vested in the cabinet  
3 because of the delay that can ensue by passing special  
4 legislation. For instance, supposing the legislature is  
5 not in session and it takes several days to call the legis-  
6 lature, they debate the bill in the house and you never  
7 know how long this is going to take -

8 THE COMMISSIONER: Why would you have to  
9 appeal to the legislature if you have a permanent statute?

10 MR. SCOTT: This is why we are recommending  
11 there be a permanent statute with authority vested in the  
12 cabinet.

13 THE COMMISSIONER: To make the election  
14 to submit it to arbitration.

15 MR. SCOTT: Yes. So it is a much more  
16 expedient and much quicker approach and it is for these  
17 reasons, sir, that we think this should be handled on this  
18 kind of a basis. And also, Mr. Commissioner, there may  
19 be some instances where the cabinet might not deem it  
20 necessary to impose compulsory arbitration.

21 THE COMMISSIONER: Yes, that is quite so.

22 MR. SCOTT: For instance, if I might just  
23 cite an example, as we state in our brief, we supply more  
24 than 90 per cent of the electric power in the Province of  
25 Ontario. But there are some communities that have very  
26 small plants in which they generate part of the power they  
27 use and Ontario Hydro supplies the balance. Well, if their  
28 employees were to go on strike, I think it would be a  
29 debatable question whether one should impose compulsory  
30 arbitration because most likely the utility could still be





1 operated by supervisory staff with power supplied by the  
2 Ontario Commission. So for these three reasons we feel  
3 that power should be vested in the cabinet to impose com-  
4 pulsory arbitration when they feel there is a hazard to  
5 the safety and health of the citizens.

6 THE COMMISSIONER: Would you contemplate a  
7 strike that could affect only a small industry like that?

8 MR. SCOTT: Yes, this could happen. It has  
9 happened.

10 THE COMMISSIONER: How does it happen?

11 What are the circumstances that makes that possible?

12 MR. SCOTT: Well, because of local entities,  
13 local organizations. For instance, I think in Perth --

14 THE COMMISSIONER: You don't have one union  
15 covering the entire field?

16 MR. SCOTT: No, sir. There may be differ-  
17 ent bargaining units even in the Ontario Municipal Utilities,  
18 sir. Some of them are with the Canadian Union of Public  
19 Employees and some of them have contracts with the Inter-  
20 national Brotherhood of Electrical Workers. So this is  
21 not all the same.

22 THE COMMISSIONER: How many different unions  
23 would you have, that is essentially different, taking into  
24 consideration any federation?

25 MR. SCOTT: I would think two, basically,  
26 sir, the two I cited - The Canadian Union of Public Employees  
27 and the International Brotherhood of Electrical Workers.

28 THE COMMISSIONER: Do you have any local  
29 unions that belong to either one of those?

30 MR. SCOTT: Yes, I believe there are some.





1 There are a few, sir.

2 THE COMMISSIONER: Then they could be free  
3 to hold up - when I say "hold up", I mean stop the processes  
4 locally.

5 MR. SCOTT: Locally.

6 THE COMMISSIONER: What about a union  
7 belonging to one of the large federations, you might call  
8 them: Is that sometimes local in its effect or local in  
9 its action or is it system-wide?

10 MR. SCOTT: Local, sir.

11 DR. HAMBLEY: I wonder, Mr. Commissioner,  
12 if it would clarify this to explain that the Ontario Hydro,  
13 the Hydro-Electric Power Commission of Ontario is funda-  
14 mentally a wholesaler of power and we sell power to some  
15 350 odd municipal utilities, each one of which is autono-  
16 mous insofar as its labour relations are concerned.

17 THE COMMISSIONER: Then the strike is not  
18 against you, it is against the local utility?

19 DR. HAMBLEY: This is the case in the  
20 instance to which Mr. Scott is referring.

21 MR. POLLOCK: Mr. Scott, can you conceive  
22 of any situation in your mind where, if the company and  
23 the union did not reach an agreement, that compulsory  
24 arbitration would not be imposed?

25 MR. SCOTT: In Ontario Hydro?

26 MR. POLLOCK: Yes.

27 MR. SCOTT: No, I can't conceive of it in  
28 Ontario Hydro.

29 MR. POLLOCK: So that the ad hoc nature  
30 of the tribunal really is only ad hoc in the sense that





1 if the parties agree, there won't be one appointed?

2 MR. SCOTT: Well, Mr. Pollock, let me say  
3 this: I think if the cabinet had the power to impose this,  
4 this gives the government an additional lever, it seems to  
5 me, to try and get the parties to come together and maybe  
6 to appoint a mediator who would try before they imposed  
7 compulsory arbitration. I think that this would be helpful.  
8 I submit this because I don't think, basically, either the  
9 unions or management are partial, let us say, to compulsory  
10 arbitration. As you know, Mr. Pollock, we have been through  
11 compulsory arbitration and we had a very able arbitrator  
12 but one man cannot be well informed on all the facet of  
13 the issues between an employer and his employees. He is  
14 bound by the very nature of things, to make certain awards  
15 which, let me say, may be unpalatable to both parties and,  
16 therefore, they would prefer, you know, to try and settle  
17 things in their own house if this is possible.

18 Therefore, I think this would not necessarily  
19 be automatic. I think the very fact the government said,  
20 "Unless you fellows get together, we are going to have to  
21 impose arbitration" might have a salutary effect on both  
22 parties.

23 THE COMMISSIONER: Of course, you could  
24 come to an agreement even after the arbitration requirement  
25 became effective.

26 MR. SCOTT: This is correct.

27 THE COMMISSIONER: But I am still puzzled  
28 about what you mean by being affected locally. You spoke  
29 about when the Hydro was affected: I assume from that that  
30 you mean a labour organization which will affect the entirety





1 of your operation.

2 MR. SCOTT: Yes.

3 THE COMMISSIONER: That is what I had in  
4 mind. How are you interested in a local dispute between  
5 a utility, a local utility and its employees?

6 MR. SCOTT: I think, Mr. Commissioner, we  
7 speak in our brief of essential services, and we say  
8 electrical power is an essential service, whether it be  
9 Ontario Hydro on a wholesale basis or the Town of Gananoque  
10 on a local basis.

11 THE COMMISSIONER: Yes, but these men who  
12 strike are not your employees?

13 MR. SCOTT: No. But I am only suggesting  
14 with regard to the imposition of compulsory arbitration --  
15 for instance, if the employees of the Gananoque Public  
16 Utilities struck, I am not sure that the hazard as to the  
17 safety and health that would ensue, would justify the im-  
18 position of compulsory arbitration.

19 THE COMMISSIONER: Quite, but my question  
20 rather, is this: What is your interest in that?

21 MR. GATHERCOLE: Sir, perhaps I might  
22 enlarge upon it in this way. This submission pertains to  
23 Ontario Hydro, province-wide, as the wholesaler and sup-  
24 plier and generator and supplier of power. My understand-  
25 ing is the Ontario Municipal Electric Association will be  
26 making later a submission to you which covers a strike in  
27 a local area. There was a strike, for instance -- I think  
28 Mr. Scott was trying to bring out the importance and essen-  
29 tiality of electric power within a region but there is,  
30 at the same time, some flexibility perhaps required to meet





1 some circumstances where, in a small municipality -- for  
2 instance, Perth had a strike -- and their local utility  
3 continued on for months and months and it just resolved  
4 itself by the manager taking over the services. In the end  
5 it was resolved without any action. On the other hand, if  
6 a strike were to occur in Toronto, in the Toronto Hydro  
7 Electric Commission, or in Hamilton, or a large community  
8 of that kind, of course, the impact and incidence of it  
9 would be very serious.

10 THE COMMISSIONER: I was wondering whether  
11 any of these local utilities are going to make representa-  
12 tions themselves?

13 MR. GATHERCOLE: My understanding is they  
14 will later, yes.

15 THE COMMISSIONER: Well, that is all right.

16 MR. GATHERCOLE: The group which encompasses  
17 all the utilities, the Ontario Municipal Electric Associa-  
18 tion are making a submission.

19 MR. SCOTT: I introduced this, Mr. Chairman,  
20 merely to point out that I did not think it would be neces-  
21 sary in every case of a strike in an electric utility to  
22 impose compulsory arbitration.

23 THE COMMISSIONER: Not on the total supply  
24 to users, in the Province.

25 MR. SCOTT: That is right.

26 THE COMMISSIONER: You say you supply 90  
27 per cent of the power: I was wondering if we could find  
28 out what you supply for the purposes of heat -- heating as  
29 compared with gas or coal?

30 MR. HILLERY: Mr. Commissioner, we supply





1 all domestic customers and, in doing so, we supply the  
2 electric motors that run the oil heat in a house, plus  
3 direct electric heat in the electrically heated houses.  
4 Generally speaking, most heat-providing sources in houses  
5 would require some electricity of some kind.

6 THE COMMISSIONER: That is true, but I had  
7 in mind simply heating purposes -- space heating: Is there  
8 much of that in this province?

9 MR. HILLERY: Oh, yes. I would think it  
10 would be something like 100 thousand kilowatts.

11 MR. GATHERCOLE: I was thinking of the  
12 number of units. I think it is very sizable. It runs up  
13 in the thousands.

14 THE COMMISSIONER: I wanted just a rough  
15 idea of the extent to which you supply heat to keep people  
16 warm.

17 MR. GATHERCOLE: My recollection, sir, is  
18 that about one out of four, or one out of three new resi-  
19 dences are electrically heated. Now, we could check that  
20 figure for you and give it to you.

21 THE COMMISSIONER: You might do that - just  
22 an approximation.

23 MR. GATHERCOLE: Most of the new motels;  
24 of course, nearly every new motel is electrically heated.

25 THE COMMISSIONER: Is it?

26 MR. GATHERCOLE: Yes, practically all the  
27 new motels are electrically heated. Commercial buildings  
28 -- this building in which these sittings are being held is  
29 electrically heated.

30 THE COMMISSIONER: Then your competitors





1 in heating are oil and gas?

2 MR. GATHERCOLE: Yes, they are.

3 THE COMMISSIONER: You don't have any coal  
4 heating?

5 MR. GATHERCOLE: Very little, except in  
6 some small communities. It is a diminishing source of  
7 heating energy. I think Mr. Hillery's point was, sir, that  
8 for instance, in my own case, I have a house which is  
9 partly electrically heated, the new addition onto it, and  
10 the rest is oil heated, but my house, in the case of oil  
11 heating, is just as dependent on electric power to turn the  
12 burner and the motors and everything else. That is what  
13 creates the essentiality of electrical energy, even in  
14 other types of heating, except gas.

15 THE COMMISSIONER: Do you include that onto  
16 your 90 per cent of power or is that in addition?

17 MR. GATHERCOLE: That would be included.

18 DR. HAMBLEY: I think the 90 per cent refers  
19 to the total amount of electrical power that is being pro-  
20 duced and delivered in this province.

21 MR. POLLOCK: The other 10 per cent is done  
22 by the independent small companies?

23 DR. HAMBLEY: Yes.

24 MR. GATHERCOLE: Largely industries.

25 THE COMMISSIONER: 90 per cent of the total  
26 electric -- and you have some power furnished by gas.

27 MR. GATHERCOLE: Yes, and oil.

28 THE COMMISSIONER: What would your per-  
29 centage be in relation to all other sources of power such  
30 as oil, gas and coal?





1 DR. HAMBLEY: This gets into very confusing  
2 statistics.

3 THE COMMISSIONER: It would only be an  
4 opinion.

5 D.R. HAMBLEY: When they start talking of  
6 this type of statistics, they consider an automobile as  
7 a form of motive power so oil gets credit for the motive  
8 power in automobiles, and so on.

9 MR. POLLOCK: You get credit, I suppose,  
10 for the trolley buses?

11 D.R. HAMBLEY: Yes, and on that basis our  
12 percentage is relatively low.

13 THE COMMISSIONER: What I had in mind was,  
14 if you were to close down, the effect would be terrific --  
15 at least, I assume that.

16 DR. HAMBLEY: Yes.

17 THE COMMISSIONER: I was just wondering  
18 what percentage of industry could keep going without you.

19 DR. HAMBLEY: I don't think any percentage  
20 of industry could keep going without electricity.

21 THE COMMISSIONER: You have a finger in  
22 every pie of that sort?

23 DR. HAMBLEY: I am sorry, that is not quite  
24 true because some industries provide their own power such  
25 as some of the paper companies.

26 MR. HILLERY: Sault Ste. Marie is fed by  
27 the Great Lakes Power Company and it serves principally  
28 Sault Ste. Marie and the surrounding areas.

29 MR. POLLOCK: It is suggested, at least you  
30 quote in your submission, at page 7, Mr. Little of the





1 Canadian Union of Public Employees where he suggests there  
2 is a possibility of providing emergency services. I take  
3 it from your memorandum that this is technically  
4 impossible: Is that correct? Assuming that they want to  
5 divide the whole of the power production and say, "We are  
6 not going to strike hospitals and the hospital's generating  
7 system, in particular areas where it would be dangerous to  
8 health" -- is that physically possible, to segregate that  
9 type of distribution?

10 MR. GATHERCOLE: May I make an observation  
11 on that drawn from some experience. Detroit Edison had a  
12 strike during the past summer and continued to operate,  
13 and it may have been the Ontario Hydro confronted with the  
14 same possibility, might do so for a time, but in the end,  
15 you must have staff on hand to make repairs, and so on.  
16 If your machinery breaks down, then you can't go on very  
17 long. Mr. Hillery is much more familiar with these things  
18 than I am and perhaps he could make some observation because  
19 he has had a great deal of experience in this field.

20 MR. HILLERY: Mr. Commissioner, fundamental-  
21 ly, as our General Manager said before, we supply power  
22 wholesale; that is, we supply it to the City of Toronto  
23 and the Toronto Hydro Electric System supply the local area.  
24 It is virtually impossible, under these circumstances for  
25 us to determine who is going to get the power and it is  
26 virtually impossible for the Toronto Hydro to decide who  
27 is going to get the power; that is, the hospitals here,  
28 for instance, are not on single feeders supplying just the  
29 hospital; they are on a network.

30 THE COMMISSIONER: They are all interconnected.





1                   MR. HILLERY: That is right. The only way  
2 you could supply, say, just the hospital, would be that you  
3 would have to go and padlock everybody's switch that was  
4 not considered essential by the union, or else cut off the  
5 others. This is where it gets to be impractical.

6                   THE COMMISSIONER: I suppose, also, there  
7 is a minimum of staff which is essential to the preservation  
8 of the plant, is there?

9                   MR. HILLERY: Yes. We can run the system  
10 as long as nothing goes wrong. That is, we can put our  
11 generating units on and run our system with a small super-  
12 visory staff. What we cannot guarantee, of course, is that  
13 if we had a sleet storm, or if somebody knocked a pole over  
14 and that pole is supplying the circuit that was the sole  
15 supply to a town, it would take us much longer to erect a  
16 pole and get service back using just supervisory staff.

17                  THE COMMISSIONER: That supervisory staff  
18 would be doing work which normally it would not do?

19                  MR. HILLERY: That is true.

20                  MR. POLLOCK: As I understand the hydro  
21 grid, which is not a very deep understanding, is it possible  
22 to patch into another source of hydro electric power and  
23 sort of, I suppose, strike breaking power coming in from  
24 the United States or from Quebec or from Manitoba, to oper-  
25 ate with any kind of efficiency here in Ontario?

26                  MR. HILLERY: We are interconnected with  
27 the Quebec utilities, the two utilities in Michigan and  
28 30 utilities in New York, New England and Long Island. We  
29 stay interconnected with them at all times throughout the  
30 year. However, if we were to close down our units, these





1 interconnections would not be heavy enough, nor would the  
2 surrounding utilities have enough power to supply the load.

3 THE COMMISSIONER: I suppose that was  
4 exemplified in the blackout in New York which was said to  
5 have been due to something happening in Canada.

6 MR. HILLERY: That is right.

7 THE COMMISSIONER: There is only one other  
8 thing, and perhaps it is in connection with your three  
9 functions. Is there anything other than electric lighting  
10 in the province -- there is no gas lighting or anything  
11 like that?

12 DR. HAMBLEY: There are gas lawn lamps on  
13 some people's lawns.

14 MR. POLLOCK: Just for decorative purposes?

15 DR. HAMBLEY: Yes.

16 THE COMMISSIONER: They don't light any  
17 streets in any community. That used to be what was done.

18 DR. HAMBLEY: Oh, yes.

19 THE COMMISSIONER: So you have a monopoly,  
20 really, of lighting, indoors and outdoors?

21 DR. HAMBLEY: That is true.

22 MR. GATHERCOLE: And a broad responsibility.

23 THE COMMISSIONER: Oh, quite.

24 MR. POLLOCK: Just a final question on the  
25 compulsory arbitration aspect. On the 9th page of your  
26 memorandum you draw a parallel between what appears to be  
27 arbitration during the collective agreement and arbitration  
28 and compulsory arbitration in the settlement of what we  
29 could call an interest dispute, that is to the conclusion  
30 of a collective agreement. You say, "Industrial relations





1 history in Ontario seems to prove that competent arbitrators  
2 thoughtfully appointed, do not bring bias but have tended  
3 to adjudicate objectively on the issues". I assume that  
4 that is the collective agreement part of arbitration ex-  
5 perience.

6 Now, it strikes me that there is a difference  
7 between the two in the sense that in the collective agree-  
8 ment situation the arbitrator finds himself with an agree-  
9 ment which he can interpret the terms of to arrive at an  
10 equitable or just interpretation. In the negotiation of  
11 the interest dispute, there are no criteria in the sense  
12 of somebody saying, "I want this money" and somebody says,  
13 "I can't pay it". Where are we going to find the criteria  
14 or the standards or the tests to be employed by somebody  
15 in the position of a compulsory arbitrator in the interest  
16 dispute?

17 MR. SCOTT: Well, Mr. Pollock, I think I  
18 would agree with you, that there are not nearly as many  
19 persons in Canada who are competent to deal with compulsory  
20 arbitration on the settlement of an agreement as there are  
21 to deal with grievances or disputes that arise during the  
22 term of an agreement and the interpretation of a contract.  
23 But I submit that there are a number of competent people  
24 in Canada who have had broad experience in the labour re-  
25 lations field, some of whom are economists and, therefore,  
26 they have a grasp of the economic situation and what is  
27 fair and reasonable from the standpoint of remuneration  
28 and also people who are unbiased and unprejudiced, they  
29 have not been associated with either the management or the  
30 labour side. Now, I think there are half a dozen of these





1 people. There are certain people from the universities  
2 who would be quite competent. For instance, you may remem-  
3 ber Professor Curtis headed the Arbitration Board of the  
4 Toronto Hydro and, in my humble estimation, did a very  
5 competent job. We have a number of these people.

6 THE COMMISSIONER: I suppose if we haven't  
7 got them, it is about time we tried to get them?

8 MR. SCOTT: I think so, sir.

9 DR. HAMBLEY: This is not such a particular  
10 problem in our case because we and the union, have for many  
11 years, agreed upon the wages paid by certain companies as  
12 indicating the community rates and it is never too difficult  
13 to produce this data.

14 MR. POLLOCK: The top quartile of those  
15 paid by industry in the province. Is that general industry,  
16 soft goods industry, durable goods industry?

17 MR. SCOTT: All industry.

18 MR. GATHERCOLE: A selection.

19 MR. SCOTT: Mr. Pollock, what we do is we  
20 get figures from the Dominion Bureau of Statistics in which,  
21 say, electricians - they list the rates of electricians  
22 and the numbers of them. Well, for instance, I just happen  
23 to know this: There are approximately 6,000 electricians  
24 included in the D.B.S. survey. We take what the top 1,500  
25 are paid, the lowest rate for the first 1,500 and then we  
26 say to our people, "We will pay you that rate or better"  
27 and in most cases it is better.

28 MR. POLLOCK: So, your system of compulsory  
29 arbitration would depend, in the main, on a system of exist-  
30 ing collective bargaining in other industries from which you





1 can draw comparable figures.

2 MR. SCOTT: This is correct.

3 MR. GATHERCOLE: Our policy is to be com-  
4 petitive and being competitive, we agree to the basic,  
5 statistical criteria or data, which is obtained from the  
6 other selected industries and that our wage scale will fall  
7 in the upper quartile of that. This is not to say that,  
8 from time to time, there may not be differences of opinion  
9 on the raw material, the data which goes into the constant  
10 formula and, in a case of this kind differences of opinion  
11 have arisen. On the other hand we do have a sort of mech-  
12 anism there which gives us some bench mark from which to  
13 work and the net result of this, I think, is, generally  
14 speaking, satisfactory. That doesn't mean there aren't  
15 differences of opinion and there would have to be, but as  
16 to the number of individuals who are available to perform this  
17 sort of a task, the highly responsible one of trying to  
18 adjudicate between the contentions or claims of respective  
19 parties if they are not there now, then the demand is there  
20 and the need for them is there and I think that the need  
21 will be met. One of the greatest difficulties, as I see it,  
22 in the area of management-labour relations often is estab-  
23 lishing the accuracy or the truth of the basic raw material,  
24 the statistical information.

25 THE COMMISSIONER: What has that been obtained  
26 from, what type of struggle or contest or whatever you may  
27 call it? How do you get these figures from which you take  
28 the upper 1,500? I mean, how do they get those figures -  
29 by, say strike action?

30 MR. POLLOCK: I think the Commissioner wants





1 to know by what technique the figures are arrived at in  
2 this top quartile, collective bargaining, strikes, and so  
3 forth.

4 THE COMMISSIONER: Somebody must arrive at  
5 those figures somehow.

6 MR. SCOTT: There are two systems, Mr. Com-  
7 missioner. The Department of Labour conducts surveys every  
8 year, of the wages paid to skilled trade and semi-skilled  
9 people and so forth and this is available in Ottawa on  
10 request. They will make runs for you and tell you what  
11 the fallout is. In addition to this, sir, we make a survey  
12 of what we consider to be the 50 leading companies in  
13 Ontario.

14 THE COMMISSIONER: What I want to know is  
15 how do these 50 leading companies come to that figure? What  
16 are the factors that produce that figure?

17 DR. HAMBLEY: These companies produce their  
18 data for us.

19 MR. POLLOCK: I think the question is -

20 MR. GATHERCOLE: It is arrived at by nego-  
21 tiation.

22 THE COMMISSIONER: Negotiation. Now, is  
23 it entirely by negotiation?

24 MR. SCOTT: Yes.

25 THE COMMISSIONER: Just a minute, do you  
26 include a strike under negotiation?

27 MR. GATHERCOLE: That is possible.

28 THE COMMISSIONER: The majority of them  
29 now, have they resulted in strikes? What is the general  
30 odds, say, in the United States regarding public utilities





1 and strikes?

2 DR. HAMBLEY: Sorry, sir, we may be confus-  
3 ing the issue here but these companies which we use are  
4 not utilities, necessarily.

5 THE COMMISSIONER: They are not utilities?

6 DR. HAMBLEY: The companies from which we  
7 get the data will be manufacturing industries, paper com-  
8 panies and so on.

9 MR. GATHERCOLE: Large electrical manufac-  
10 turers and others.

11 THE COMMISSIONER: But they would include  
12 utilities?

13 MR. SCOTT: We include two, sir. What we  
14 normally do is, we try and take the two leading companies  
15 in each division of industry. For instance, we take the  
16 two leading steel companies, the two leading oil companies,  
17 the two leading rubber companies, the two leading electrical  
18 supply companies and as far as the utilities are concerned,  
19 we use utilities, municipal utilities that have staffs of  
20 over 500 people and we include this in our survey.

21 THE COMMISSIONER: It was only the basis,  
22 the means by which those other figures were obtained that  
23 I was interested in, because they save you, in a sense, the  
24 trouble of going through the same process.

25 MR. SCOTT: That is right.

26 MR. POLLOCK: One of the objections to this  
27 referential type of salary negotiation is that the employee  
28 is bound by it. This is their complaint, they feel that  
29 they are always marching one step behind and never become  
30 leaders in the industry. Is this a valid criticism or is





1 it ever made in your position?

2 DR. HAMBLEY: It is not only a valid posi-  
3 tion: I would say it is a fundamental policy that the  
4 Commission cannot, it is impractical for the Commission to  
5 be a leader in this field.

6 MR. GATHERCOLE: May I just say this, Mr.  
7 Commissioner. We think by being up in the upper quartile

8 THE COMMISSIONER: How do you spell that  
9 name, if I may ask?

10 MR. GATHERCOLE: Q-u-a-r-t-i-l-e - that is  
11 the way I spell it.

12 THE COMMISSIONER: That is a new one on me.

13 MR. GATHERCOLE: It means in the upper 25  
14 per cent. By being --

15 THE COMMISSIONER: There is an inventive  
16 genius somewhere.

17 MR. GATHERCOLE: By being up in the upper  
18 25 per cent of a scale which includes the salaries and wages  
19 of the largest companies and the best paying companies, we  
20 think that, in this regard, Ontario Hydro provides a high  
21 competitive standard by way of salaries and wages. We don't  
22 think that a publicly owned enterprise can lead the way and  
23 be the top dog on the totem pole but we do think that we  
24 have to be competitive with other industry in providing  
25 vital services, a highly technical service. We feel we have  
26 to be competitive and we think by being in the upper 25 per  
27 cent of large selected companies that we are competitive.

28 THE COMMISSIONER: Is that basis more or  
29 less accepted by the employees?

30 MR. GATHERCOLE: I think it has been.





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1 MR. SCOTT: The only dispute we have with  
2 the employees, Mr. Commissioner, is how high in the upper  
3 quartile should they be. I don't know, Mr. Pollock, whether  
4 your question was directed to our comparison with other  
5 utilities or whether it was directed to our comparison with  
6 industry.

7 MR. POLLOCK: I think generally.

8 MR. SCOTT: Well, we stand very favourably.  
9 If I may just quote in parenthesis the union in its paper  
10 published about 3 or 4 months ago, said that the employees  
11 in Ontario Hydro were paid in the top decile of industry  
12 in the Province of Ontario.

13 MR. POLLOCK: That is the top 10 per cent?

14 MR. SCOTT: The top 10 per cent, yes.

15 MR. POLLOCK: You didn't provide us with  
16 a glossary of terms.

17 MR. GATHERCOLE: Maybe we are a little too  
18 high.

19 THE COMMISSIONER: What have you to say of  
20 the illegal and wildcat strike? What do you think of the  
21 wildcat strike?

22 MR. SCOTT: Well, what we mean, Mr. Commis-  
23 sioner, is a wildcat strike where the employees just take  
24 the law into their own hands and decide they are going to  
25 walk off the job over some issue.

26 THE COMMISSIONER: In violation of what?

27 MR. SCOTT: In violation both of the law  
28 and of the contract.

29 THE COMMISSIONER: That is the distinction  
30 you make?





1 MR. SCOTT: That is right.

2 MR. POLLOCK: In this reference, can we  
3 make the distinction that that would constitute illegal  
4 activity as opposed to wildcat activity and that wildcat  
5 activity would be actually not sanctioned by the union?

6 MR. SCOTT: This is correct, Mr. Pollock.

7 MR. POLLOCK: On the second page of your  
8 submission, the second point at the bottom of that page,  
9 "In essential public services, illegal activity such as  
10 wildcat strikes, slowdowns and secondary boycotts, refusing  
11 to cross picket lines are also prejudicial to the public  
12 interest. Their prohibition should be enforced". Now,  
13 how do you contemplate this enforcement and how do you  
14 compel these individuals to work?

15 MR. SCOTT: Well, Mr. Pollock, first of all  
16 I think the prohibition really refers to illegal activity.  
17 This is the first one, illegal activity such as wildcat  
18 strikes. What we are suggesting here is that, first of all  
19 there should be much quicker action by the Labour Relations  
20 Board in hearing a claim that there is an illegal stoppage.  
21 For instance, as I understand it, if you apply for an ex-  
22 parte injunction to prohibit something going on, I can go  
23 to the court today with an affidavit and I would be heard  
24 today. However, if you have a serious situation where your  
25 plant is shut down and your employees are out of work, some-  
26 times it takes a week or two weeks before the Labour Rela-  
27 tions Board will sit down and give you a hearing. So, we  
28 are suggesting, first of all, that there should be prompter  
29 consideration of these matters and I think, Mr. Pollock, we  
30 also suggest in our brief that we feel, if there was prompter





1 action by the Labour Relations Board, there would be less  
2 need for as many **ex parte** injunctions, Mr. Commissioner. In  
3 that way, we would get relief through the Board rather  
4 than having to go to the court.

5 The second suggestion we have made in the  
6 brief --

7 MR. POLLOCK: Just on that point, relief  
8 in the sense of a declaration that a strike is unlawful.

9 MR. SCOTT: Yes.

10 MR. POLLOCK: Has it been your experience  
11 without that backing up of any kind of sanction or enforce-  
12 ment power that that is sufficient to reduce the strike,  
13 get the people back to work?

14 MR. SCOTT: It has been in many instances,  
15 not all. It used to be more so than it is now. Once the  
16 employees got notice from the Board that this application  
17 had been made, normally they returned to work. This is  
18 not as prevalent now.

19 The second point on which your question was  
20 addressed was the question of enforcement. We sort of feel  
21 that once the Board has decided that a stoppage has been  
22 illegal, that these boys have walked off the job contrary  
23 to the Act, that then the prosecution of the employees who  
24 broke the law should be the responsibility of the govern-  
25 ment, because this creates an awkward situation in manage-  
26 ment-labour relations because they are going to be mad at  
27 us and we will harm the esprit de corps of the organization  
28 which, I submit, with all due respect, that I think this  
29 is one of the reasons that illegal stoppages are on the  
30 increase, because employees very often think that the





1 employer will not go through with the final act of applying  
2 for a prosecution, permission to prosecute.

3 MR. POLLOCK: Based on the Ontario exper-  
4 ience, that is a pretty sound prediction.

5 MR. SCOTT: Yes.

6 MR. POLLOCK: On the 13th page of your  
7 memorandum, you talk about the nuclear power demonstrator  
8 at Rolphton at which there was semi-legal activity in the  
9 sense that certain of the operators who I take it were  
10 not engaged in the picketing, refused to cross the picket  
11 line. Do you have, in any of your contracts with your  
12 employees, a term relating to the crossing of the picket  
13 line, either permissive or prohibitive?

14 MR. BARNES: No, we do not, Mr. Pollock.

15 MR. POLLOCK: You do not provide in any  
16 of your contracts, "You shall cross the picket line if it  
17 is illegal" or anything like it?

18 MR. BARNES: No.

19 MR. SCOTT: I can quote the reverse -- not  
20 quite the reverse, but the union requested the inclusion of  
21 a clause in the contract that they will not be required to  
22 cross picket lines. We have refused to concede this.

23 MR. POLLOCK: But you don't, in fact, take  
24 any action against them for breaching the contract by not  
25 reporting to work?

26 MR. SCOTT: I would say, basically, our  
27 experience in this area has been reasonably good. We can-  
28 not complain too bitterly of the refusal of our operating  
29 people to cross the picket lines.

30 MR. BARNES: The only incident where this





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1 happened, we did proceed to prosecution.

2 MR. POLLOCK: You prosecuted the case to  
3 its conclusion?

4 MR. BARNES: We did.

5 MR. GATHERCOLE: We had a case in Lakeview  
6 and I don't know whether it affected the operators, but  
7 it affected the others where some of the unions failed to  
8 report for work.

9 THE COMMISSIONER: I suppose there is a  
10 disinclination to do that because you contemplate continu-  
11 ous relations, and it is an unpleasant thing no matter who  
12 has to bear the responsibility. You want to make it some  
13 neutral agency.

14 MR. SCOTT: Yes, that is the point. I  
15 think it would be helpful to good labour relations, and I  
16 think also, with due respect, Mr. Commissioner, that this  
17 would make the unions have greater respect for the law.

18 MR. POLLOCK: It may make the unions have  
19 greater respect for the employer if he took the action  
20 against them.

21 THE COMMISSIONER: Or would it embitter?

22 MR. SCOTT: This is a very debatable field,  
23 Mr. Commissioner.

24 MR. POLLOCK: Do you think there is a  
25 distinction that can be drawn between an employer who is  
26 obviously going to have to testify in these proceedings  
27 against the employees in an action instituted by, say, the  
28 Crown Attorney or the government and one which is instituted  
29 at the request of the employer? Do you want the government  
30 to be policing these things and saying, "I think there is





1 a case of illegal activity. I think we are going to pro-  
2 secute it", and the company, not having any say in saying,  
3 "Please don't prosecute"?

4 MR. GATHERCOLE: I would say, definitely  
5 the company should exercise discretion in the cooperation.  
6 I think often these suits or prosecutions cannot help but  
7 embitter relations between workers and supervisors and  
8 management. I don't think there is any question about  
9 that. The question, however, is this, as to whether by  
10 not prosecuting you encourage a rash of these developments  
11 and, therefore, you have to sometimes show that the unions  
12 should be -- or the people who commit these acts which may  
13 be illegal, should be held accountable.

14 THE COMMISSIONER: I suppose what you want  
15 is a company ombudsman.

16 MR. GATHERCOLE: We try to do that ourselves,  
17 sir.

18 MR. POLLOCK: A final question on that  
19 point: Do I detect a disinclination on the part of manage-  
20 ment generally, and Hydro in particular, to proceed past  
21 the initial injunction stage in a proceeding -- injunctions  
22 are commenced by writ of summons in which you allege damages  
23 and you are going to proceed and you ask for interim relief  
24 of an injunction: Once the injunction has been obtained,  
25 do I take it that your attitude is that that is the end of  
26 it, "We are not going to go on to damages because we will  
27 detract from our management-employee relationship"?

28 MR. SCOTT: I would say, normally, Mr.  
29 Pollock, that is our approach.

30 THE COMMISSIONER: You suggest the injunction





1 procedure should be improved: By what means?

2 MR. SCOTT: We feel, Mr. Commissioner, I  
3 think if it were possible -- I am not well versed in the  
4 legal field -- we feel if it were only possible to get  
5 quicker action with both parties present rather than just  
6 an *ex parte* injunction, then this would be very helpful.

7 THE COMMISSIONER: Have you had any actual  
8 experience in conditions of crisis in which you were exposed  
9 to, very probably, damage to your property of a serious  
10 nature?

11 MR. SCOTT: Not in our operating field, Mr.  
12 Commissioner. In construction, yes, but this will be dealt  
13 with later.

14 THE COMMISSIONER: I am speaking of the  
15 operations now.

16 MR. SCOTT: No, I don't think so.

17 MR. POLLOCK: These examples you gave at  
18 the bottom of pages 15 and 16 in relation to the chains  
19 or cables tossed across live conductors and sensitive relays  
20 and machinery -- those are just conjecture or speculation?

21 MR. SCOTT: These are possibilities if we  
22 did not have quick protection.

23 MR. POLLOCK: Those are not particular  
24 examples from your actual experience?

25 MR. SCOTT: No.

26 THE COMMISSIONER: You probably have a very  
27 satisfactory working force.

28 MR. SCOTT: Yes, we have.

29 MR. GATHERCOLE: Yes, we have; very con-  
30 scientious.





1 MR. SCOTT: I think, Mr. Pollock, to answer  
2 your question, employees of other companies and other unions  
3 have done this.

4 MR. POLLOCK: Not to you.

5 MR. SCOTT: Yes, to us. This, I think,  
6 emphasizes the necessity of getting protection quickly.  
7 This was done to us in Kingston not long ago where somebody  
8 threw something across the transmission line.

9 MR. POLLOCK: Because you were supplying  
10 power to a struck plant?

11 MR. SCOTT: To a struck plant, that is right.

12 MR. POLLOCK: An ultimate secondary boycott.

13 MR. SCOTT: This is correct.

14 We have never used the injunction procedure.

15 MR. POLLOCK: From my recollection from the  
16 Hydro experience, it has been pretty peaceful.

17 MR. SCOTT: That is right.

18 MR. POLLOCK: You have had very good collec-  
19 tive bargaining relationships; outside of the one incident,  
20 or two, of compulsory arbitration you have been able to  
21 satisfy all your disputes?

22 MR. SCOTT: Once for Ontario Hydro and once  
23 for Toronto.

24 THE COMMISSIONER: You talk about the  
25 switching of the authority to issue one from the courts to  
26 the labour courts or some institution of that nature?

27 MR. SCOTT: I didn't quite get the question.

28 MR. POLLOCK: Switching the jurisdiction  
29 to issue injunctions from the courts to an administrative  
30 tribunal or a labour court especially dealing with these





1 type of problems.

2 MR. SCOTT: My personal opinion, Mr. Com-  
3 missioner, is that this should be left with the judiciary  
4 who are experienced and very competent in this field.

5 THE COMMISSIONER: Of course, it does not  
6 depend upon technical mastery or anything of that sort. It  
7 is a simple question of fact.

8 MR. SCOTT: This is right, sir, but once  
9 you get to a board, you get other pressures into play, and  
10 I don't think you get as objective a result as you would  
11 with the courts.

12 MR. POLLOCK: In any event, you are not  
13 suggesting in your speedy relief to the Labour Relations  
14 Board, or that type of board, which declares a strike to be  
15 unlawful, clothing them with authority to grant cease and  
16 desist orders or injunction relief or something like that?  
17 That does not go hand-in-hand with your submission?

18 MR. SCOTT: We feel that they should be  
19 empowered to give cease and desist orders.

20 MR. POLLOCK: Which is, in effect, an in-  
21 junction. If you did not get one from the Labour Relations  
22 Board, could you then go to the court and try again?

23 MR. SCOTT: Yes.

24 MR. GATHERCOLE: I would say, Mr. Commis-  
25 sioner, that this matter as to who should preside over the  
26 arbitration of disputes should be, to a degree, a matter  
27 of opinion -- maybe to a larger degree a matter of opinion.  
28 It seems to me, men who are qualified or specialized in  
29 this area, as well as being men of integrity, can do an  
30 appropriate job in this area, in the same way as personnel





1 of the Ontario Municipal Board.

2 THE COMMISSIONER: They are not concerned  
3 with any technical operation or process. It is simply a  
4 question, generally, of damage to property, injury to per-  
5 sons or something of that nature that is substantial. So,  
6 it is not the same as a technically accomplished, labour  
7 tribunal. However, there is no doubt that the question of  
8 procedure may present some difficulties. You have been  
9 accustomed now to some of this -- is there any difficulty  
10 gathering up half a dozen people who are at the plant and  
11 bringing them before the judge? Is there any difficulty  
12 about that, so that they would not have to rely, say, upon  
13 affidavits?

14 MR. POLLOCK: As witnesses?

15 THE COMMISSIONER: They could show what  
16 the facts were by oral evidence which would be subject to  
17 examination by a representative of the other side, whoever  
18 it may be.

19 MR. SCOTT: I don't think there would be.  
20 Of course, it would be up to the individuals themselves.

21 THE COMMISSIONER: Oh, yes, but it is a  
22 feasible thing?

23 MR. SCOTT: Yes.

24 THE COMMISSIONER: It doesn't strike me as  
25 having very much difficulty about it.

26 MR. SCOTT: No. We would be very happy if  
27 something like this could be worked out. It would expedite  
28 matters very materially.

29 THE COMMISSIONER: These methods of pro-  
30 cedure, you know, have not been made for eternity.





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1 MR. SCOTT: No.

2 MR. POLLOCK: On page 16, just a point of  
3 information. You say there, "Labour unions complain about  
4 the employers' recourse to the courts for relief. This  
5 seems strange inasmuch as they utilize this same avenue  
6 frequently themselves. A recent study of the Supreme  
7 Court of Canada labour decisions indicate that more than  
8 one-half of these proceedings were initiated by unions or  
9 employees". Perhaps you, or Mr. Kelly, could advise us as  
10 to the nature of these cases and whether there is a parallel  
11 between the type of relief sought by unions and that sought  
12 by management in this field.

13 MR. SCOTT: I am sorry, Mr. Pollock, I  
14 don't think we can speak to that with authority. This was  
15 a survey that was conducted by a management organization  
16 and we had access to their records. I understand that this  
17 evidence will be presented to the Commission later on, with  
18 regard to the incidence of these things.

19 THE COMMISSIONER: Have you ever had an  
20 entirety of strike where your whole activity was brought  
21 to a halt?

22 MR. SCOTT: No, sir, we have not. We only  
23 had the threat of one, Mr. Commissioner, in 1962.

24 THE COMMISSIONER: Of course, your position  
25 is rather unique in one way because you are a servant of  
the province.

27 MR. SCOTT: That is correct.

28 THE COMMISSIONER: And it is being carried  
29 on for the benefit of the province?

30 MR. SCOTT: Yes.





1                   THE COMMISSIONER: Well, if you have any  
2 other suggestions to make, we would be very glad to receive  
3 them.

4                   MR. POLLOCK: One more question that I have,  
5 and I think my last one. On the last page of your brief,  
6 page 17, under the general title of "Other Recommendations"  
7 and it is the second one, it says, "To insure that unions  
8 as well as management are held accountable for their actions,  
9 it is desirable to repeal the Rights of Labour Act". By  
10 this, do you mean that you should make unions liable for  
11 suit?

12                  MR. SCOTT: Yes, that is right. I think  
13 it is section 2, Mr. Pollock, of the Rights of Labour Act.  
14 What we feel in this connection is, that the government  
15 normally tries to create an atmosphere where there is a  
16 balance of power between labour and management and it is  
17 our feeling at the moment that the scales are heavily  
18 weighted one way because of the Rights of Labour Act and we  
19 don't think that unions should get preferential treatment  
20 in the field of responsibility or accountability.

21                  I might express the feeling, Mr. Pollock,  
22 that when this Act was introduced, I think there was need  
23 for it. The industrial unions at least at that time, were  
24 young, they didn't have great financial reserves, they  
25 required protection and, if they had not had this protection,  
26 they might have lost their identity, they might have been  
27 sort of washed out, if you will. However, this is 20 years  
28 ago and since that, they have become exceedingly strong,  
29 they have great resources and with due respect, we feel  
30 that they should have the same responsibility towards the





1 public and the people they deal with as other corporations.

2 MR. POLLOCK: In view of the reluctance to  
3 prosecute because of the deterioration that it would result  
4 in of the employer-employee relationship, do you think that  
5 employers would resort to this type of action against unions  
6 for damage?

7 MR. SCOTT: Yes, I think they would.

8 MR. POLLOCK: They would not prosecute  
9 them but they would sue them and take their money?

10 MR. SCOTT: This is quite true because -  
11 I know you don't have an opportunity to review arbitration  
12 awards but damages in arbitration awards are becoming much  
13 more frequently awarded than they were, say, 5 years ago.

14 MR. POLLOCK: Following the Polymer case.

15 MR. SCOTT: That is right.

16 THE COMMISSIONER: That is from individuals?

17 MR. SCOTT: No, from unions.

18 THE COMMISSIONER: How would it affect  
19 the union? The individual may recover from the employer.

20 MR. SCOTT: Well, yes, they may but an  
21 employer also, sir, may recover from a union if it can be  
22 proven that the union was responsible for the stoppage  
23 that caused the damage. I forgot in the Polymer, Mr.  
24 Pollock --

25 THE COMMISSIONER: That is under the agree-  
26 ment.

27 MR. SCOTT: Yes.

28 THE COMMISSIONER: What section of the  
29 Rights of Labour Act?

30 MR. SCOTT: Section 3, subsection (2).





1 THE COMMISSIONER: Oh, yes. Perhaps you  
2 may be able to answer me this question: That is really  
3 the law of England today. Now, there must be some social  
4 consideration behind that. What is it?

5 MR. SCOTT: Well, I don't know enough about  
6 the United Kingdom practice, Mr. Commissioner. You know,  
7 I think this law only exists in about three provinces in  
8 Canada.

9 THE COMMISSIONER: Do you mean to say that  
10 in all the other provinces they can sue a union?

11 MR. SCOTT: Yes, they certainly can in B.C.

12 THE COMMISSIONER: They can in B.C., yes.

13 MR. SCOTT: And I think they can in Alberta  
14 and Manitoba. I think Quebec has some kind of protection.  
15 It is not this kind of an Act, sir, but they do have a  
16 modest protection down there.

17 THE COMMISSIONER: I suppose you have to  
18 realize that the unions are composed in many cases of men  
19 who are not affluent at all: They have quite a struggle  
20 these days to get on and they maintain whatever organization  
21 they have in the local union by their contributions, monthly  
22 or whatever it may be. What you are suggesting is - and I  
23 am not expressing any opinion one way or the other, but  
24 here are the facts: You are suggesting that that accumula-  
25 tion, insignificant, really, to large industry, should be  
26 exposed to the appropriation for a union's misconduct?

27 MR. SCOTT: That is right, as a deterrent,  
28 Mr. Commissioner.

29 THE COMMISSIONER: If you have no objection  
30 to doing that, I can't understand why you are so sensitive





Toronto, Ontario

1 about prosecuting the individual under the Labour Act.

2 MR. SCOTT: Because this is not quite so  
3 personal, Mr. Commissioner.

4 THE COMMISSIONER: But it touches him just  
5 at a very sensitive point.

6 MR. SCOTT: Very indirectly. This would  
7 come out of union funds: This does not affect the individ-  
8 dual per se, Mr. Commissioner.

9 THE COMMISSIONER: Yes, that is true.

10 MR. SCOTT: And, therefore, he, I don't  
11 think, would feel offended, or I don't think it would rub  
12 him the wrong way. He might, in fact, say "Well, the union  
13 was wrong, they shouldn't have done this" and this has  
14 happened on occasion.

15 THE COMMISSIONER: Well, the union, of  
16 course, acts upon the advice and action of its leaders,  
17 undoubtedly. I think the leadership in the union, gener-  
18 ally speaking, is pretty dominant, isn't it?

19 MR. SCOTT: I think you have to differen-  
20 tiate here, Mr. Commissioner, as to whether you are talking  
21 about industrial unions or construction unions.

22 THE COMMISSIONER: I am not dealing with  
23 the latter.

24 MR. SCOTT: There is quite a difference  
25 here in the power and the prerogatives of the leaders.

26 THE COMMISSIONER: Take the industrial  
27 unions.

28 MR. SCOTT: Yes, I would say your statement  
29 is quite correct.

30 MR. POLLOCK: Do you think that the





1 \$2 million judgement against the steelworkers in the Pro-  
2 vince of Quebec, arising out of the difficulty at Murdoch-  
3 ville, Gaspe Copper, do you think that is far enough re-  
4 moved from the members to insulate them from concern?

5 THE COMMISSIONER: What about their pension  
6 fund?

7 MR. GATHERCOLE: Well, they are bound to  
8 be affected, obviously, by it. After all, it diminishes  
9 their treasury and therefore, the funds that they have  
10 contributed over a good many years.

11 THE COMMISSIONER: Would you exempt the  
12 responsibility of pension funds, for instance?

13 MR. SCOTT: Well, they are exempted, sir.  
14 You can't attach pension funds.

15 MR. GATHERCOLE: I think our approach here,  
16 Mr. Commissioner, is simply one that the purpose would not  
17 be to be vindictive, to deprive a union treasury of any  
18 funds, but simply if the accountability could be establish-  
19 ed there, that it should be an effective sense of account-  
20 ability upon the part of the union itself. That would be our  
21 only purpose.

22 MR. POLLOCK: Would you conceive this right  
23 of action to be an alternative to the use of the injunction?

24 MR. SCOTT: No, Mr. Pollock, I think you  
25 need both particularly in our instance because you jeopar-  
26 dize the health and safety of so many people if you can't  
27 protect your plant and property immediately. A remedial  
28 action afterwards doesn't help very much if somebody goes  
29 without heat for 48 hours.

30 THE COMMISSIONER: Nobody is going to





1 benefit by the destruction of any kind of property. It  
2 seems to be obvious.

3 MR. SCOTT: Your question, with regard to  
4 the steelworkers at Murdochville, this was an extreme case  
5 and I am not suggesting that the members of that local were  
6 not financially hurt by the decision that came down from  
7 the court. But normally, on the awards that have been made  
8 that I have knowledge of, they have not been, they have not  
9 had this impact, they have not been this large or have had  
10 as broad an impact on the finances.

11 MR. POLLOCK: Well, there was an action  
12 and judgment against mineworkers several years ago in the  
13 neighbourhood of millions of dollars against John L. Lewis,  
14 I think it was.

15 MR. SCOTT: Yes.

16 MR. POLLOCK: But in British Columbia the  
17 jurisdiction which has had a specific section of their  
18 trades unions Act since 1959, which permits the suing of  
19 a union, there has only been to my knowledge, one case  
20 involving, I think, \$40 which was the eventual sum. Now,  
21 surely there must have been that experience in the 7 or 8  
22 years in British Columbia that would say that this type of  
23 action is not resorted to, probably for the same reasons  
24 that they don't resort to prosecution. Is that your view?

25 THE COMMISSIONER: Have there been many  
26 cases where substantial property has been destroyed?

27 MR. SCOTT: I would suspect, Mr. Commissioner,  
28 that there have been, but I would suggest, Mr. Pollock,  
29 that there have not been very many illegal acts and, there-  
30 fore, this has acted as a deterrent, I think, in B.C.





1                   THE COMMISSIONER: Wouldn't it be provoc-  
2 tive, rather than a deterrent? If you haven't had any  
3 serious cases - I remember in 1945 there was one at the  
4 Ford Plant, I think it was 1945 --

5                   MR. SCOTT: Yes, this is later.

6                   THE COMMISSIONER: ... where they described  
7 damage to the water heating system to the extent of approx-  
8 imately \$200 thousand. Apart from that has there been any  
9 large scale damage done?

10                  MR. SCOTT: There has been quite a bit of  
11 damage done to - well, let us say loss of production  
12 because of certain stoppages.

13                  THE COMMISSIONER: That is a different  
14 thing. I mean positive damage and destruction of property  
15 in the plant.

16                  MR. SCOTT: Not ourselves. We are not  
17 speaking of ourselves here, but you will remember, Mr.  
18 Commissioner, in the trucking strike there was considerable  
19 damage done by slashing of tires and this type of thing.

20                  MR. POLLOCK: Again, from your general  
21 experience, the fourth of your other recommendations on  
22 the last page:

23                  "Law enforcement agencies at all times  
24 should be fully instructed and informed  
25 regarding the rights and responsibilities  
26 of both parties in any labour dispute  
27 plus their own responsibilities to ensure  
28 that the laws of the land are kept."

29 Now, is it the practice that in cases of violence on the  
30 line, or threatened violence, that the local law enforcement





1 agencies are requested to take action and it is only on  
2 their failure to take action that injunction proceedings  
3 are sought or do you think that they are by-passed?

4 MR. SCOTT: Well, that is a pretty hard  
5 question to answer, Mr. Pollock, because my experience,  
6 really, is not this broad. I would say normally, it is  
7 because they are by-passed. I think the average employer,  
8 if he was getting protection of his plant and property and  
9 personnel, would not necessarily apply for an injunction.

10 MR. POLLOCK: What I meant by by-passing  
11 -- that is my fault: Do they by-pass the local law enfor-  
12 cement agency and go to get an injunction? Do they first  
13 call the police and say, "There are a lot of people on my  
14 property and they are breaking my windows and shouting and  
15 yelling and stopping my customers" and at that stage, does  
16 the law enforcement agency say "No, get an injunction", and  
17 then the company is forced to go through civil procedure  
18 other than criminal?

19 MR. SCOTT: Mr. Pollock, I think this works  
20 both ways. I think there are some employers who go directly  
21 to the court. I think there are others who solicit the  
22 support and protection of the local police force, and then  
23 if they cannot get it put right, apply to the courts.

24 THE COMMISSIONER: I should have asked you  
25 this question and I do not think I did: Have you had any  
26 experience at all with a picket line?

27 MR. SCOTT: In what relation, Mr. Commis-  
28 sioner? We have had picket lines around our plants, and  
29 around our head office over here.

30 THE COMMISSIONER: Was there any objection-





1 able conduct?

2 MR. SCOTT: No, sir, I cannot say there has  
3 been any objectionable conduct.

4 MR. POLLOCK: You have probably had picket  
5 lines in your construction area but that is something you  
6 will deal with at a later stage?

7 MR. SCOTT: That is correct, Mr. Pollock.

8 THE COMMISSIONER: Well, gentlemen, we are  
9 very much obliged to you for the information you have given  
10 us. It is largely a question of opinion but we invited  
11 your opinion and we want to thank you very much.

12 MR. GATHERCOLE: Thank you very much.

13 DR. HAMBLEY: One impression I got, in one  
14 of the answers I got the impression that you said the  
15 executives of industrial unions exerted more influence  
16 than the executives of construction unions.

17 MR. SCOTT: Yes.

18 DR. HAMBLEY: You feel that is so?

19 MR. SCOTT: Yes, I do.

20 THE COMMISSIONER: There is more potential  
21 rebellion there.

22 MR. SCOTT: Yes, sir, I feel in the con-  
23 struction trades the locals are more accomplished and have  
24 more power than is the case with the industrial unions.  
25 This is purely a personal observation.

26 THE COMMISSIONER: Thank you very much.

27 MR. HILLERY: Mr. Commissioner, you were  
28 asking earlier, the number of electrically heated homes  
29 and I have that now. I have a figure here now, and the  
30 latest figure we have is to the end of 1965 and there were





1 19,620 electrically heated homes, and that represents 20.7  
2 per cent of homes. That is to the end of 1965.

3 THE COMMISSIONER: If, in the meantime,  
4 you find you have any other statistics, we will be very  
5 glad to receive them.

6 MR. GATHERCOLE: We could give you a report  
7 somewhat more detailed, on that.

8 THE COMMISSIONER: Thank you very much.

9 The Commission is adjourned until 10:00  
10 o'clock on Wednesday.

11 ---Adjournment

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